

William L. Zawila
ATTORNEY AT LAW

DOCKET FILE COPY ORIGINAL

12550 BROOKHURST STREET
GARDEN GROVE, CALIFORNIA 92640
(714) 636-5040

September 17, 1994

RECEIVED
SEP 19 1994
FCC MAIL ROOM

Secretary
Federal Communications Commission
1919 "M" Street, N.W.
Washington, D.C. 20554

Re: Enclosed Opposition to Rulemaking and Counter-Proposal
MM Docket No. 94-86
RM-8497
Western States Broadcasting, Inc.

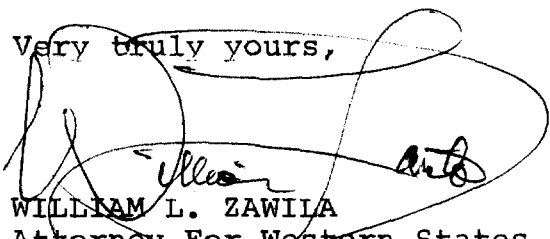
Secretary:

Enclosed for filing with the Commission is an original and six copies of an Opposition to Rulemaking and Counter-Proposal on behalf of Western States Broadcasting, Inc. in the above-referenced proceeding.

Please contact this office if you require further information in this matter.

WLZ/ds
encls (7)

Very truly yours,


WILLIAM L. ZAWILA
Attorney For Western States
Broadcasting, Inc.

No. of Copies rec'd
List ABCDE

026

BEFORE THE
Federal Communications Commission

In Re)
)
Amendment of Section 73.202(b))
FM Table of Allotments for)
FM Broadcast Stations)
Klamath Falls, Oregon)
Altamont, Oregon)
Butte Falls, Oregon)

MM DOCKET NO. 94-86
RM-8497

RECEIVED

SEP 19 1994

FOC MAIL ROOM

To: Chief, Mass Media Bureau

OPPOSITION TO RULEMAKING AND COUNTER-PROPOSAL

Western States Broadcasting, Inc. ("WSB") hereby presents its Opposition to the above-referenced Rulemaking and its Counter-Proposal in this proceeding.

WSB is licensee of Radio Station KWSA(AM) at West Klamath, Oregon, and permittee of Radio Station KCHQ(FM) at Altamont, Oregon, currently assigned to FM Channel 249-C-1, at Altamont, Oregon.

WSB requests that the Commission dismiss the proposed Rulemaking at Klamath Falls, Oregon, and accept this Counter-Proposal of WSB at Altamont, Oregon, and Butte Falls, Oregon. WSB requests that the Commission's Rules be amended to allot the following FM Channels to the following communities:

<u>CITY</u>	<u>EXISTING CHANNEL</u>	<u>PROPOSED CHANNEL</u>
Butte Falls, OR	NONE	249-C-2
Altamont, OR	249-C-1	284-C-1

By this Counter-Proposal, WSB seeks to move FM Channel 249 to Butte Falls, Oregon as a Class C-2 Channel and replace it at

Altamont, Oregon, with FM Channel 284-C-1.

In support of its Counter-Proposal, WSB submits the following:

1. Channel 249-C-1, currently assigned to WSB, is the first and only service at Altamont, Oregon.

2. Butte Falls, Oregon, is an incorporated community in Jackson County, Oregon, which has no local radio service.

3. WSB seeks to move FM Channel 249 as a Class C-2 to Butte Falls, Oregon, so that WSB can apply for and provide first service to Butte Falls, Oregon.

4. Inasmuch as the relocation of Channel 249 from Altamont, Oregon, to Butte Falls, Oregon, would leave Altamont with no local radio service, WSB proposes to allocate FM Channel 284-C-1 to Altamont, Oregon. This would allow Altamont, Oregon, to have one FM Class C-1 service allocated to Altamont and it would provide a new first service to Butte Falls, Oregon. The net result of this Counter-Proposal is that there would be no change at Altamont, Oregon, but there would be a new first service provided for Butte Falls, Oregon. WSB submits that this Counter-Proposal, which would result in a new first service at Butte Falls, Oregon, is preferable over petitioner's proposal which would only add a fourth service to Klamath Falls, Oregon. Under Commission Rule 307(B) considerations, Butte Falls, Oregon is entitled to receive an FM allocation which would bring first service to Butte Falls. In comparison, there is no real need for another FM allocation at Klamath Falls, Oregon, which would be the fourth FM service in Klamath Falls, Oregon. WSB notes that in addition to the three FM allocations and services that exist at Klamath Falls, Oregon, there are also

three AM stations licensed to Klamath Falls, Oregon. This means that the petitioner's proposal would actually bring the seventh service to Klamath Falls, Oregon. This makes WSB's Counter-Proposal even more preferable under the Commission's Rules and Policies affecting FM allocations.

5. WSB's Counter-Proposal is mutually exclusive with petitioner's proposal in that WSB seeks to allocate FM Channel 284-C-1 to Altamont, Oregon, rather than Klamath Falls, Oregon. Since Altamont, Oregon, currently has one Class C-1 allocation (Channel 249-C-1), WSB's Counter-Proposal to move Channel 249 to Butte Falls, Oregon, would require that Channel 249 be replaced at Altamont, Oregon, with a Class C-1 FM Channel. WSB's Counter-Proposal would allocate FM Channel 284-C-1 to Altamont and thus the Commission's policy of replacing FM Channel 249-C-1 with another Class C-1 Channel at Altamont, Oregon, would be met.

6. WSB submits that the public interest would be served by implementation of its Counter-Proposal. Bringing first service to Butte Falls, Oregon, would bring new service to approximately 175,000 people. In contrast, a fourth FM service at Klamath Falls, Oregon, would only bring service to approximately 56,000 people.

7. Attached hereto is an engineering exhibit demonstrating that FM Channel 249-C-2 can be allocated to Butte Falls, Oregon, in compliance with all of the Commission's Rules and Policies affecting this matter.

8. WSB seeks modification of its existing construction permit for Radio Station KCHQ(FM) to operate on FM Channel 249-C-2 at Butte Falls, Oregon, through this Counter-Proposal.

9. WSB seeks allocation of FM Channel 284-C-1 at Altamont,


Oregon, as its first wide area FM Channel allocation.

10. If FM Channel 249-C-2 is allotted at Butte Falls, Oregon, for use by Radio Station KCHQ(FM), WSB will file a minor change application so that Radio Station KCHQ(FM) can provide first service to Butte Falls, Oregon.

11. If FM Channel 284-C-1 is allotted at Altamont, Oregon, WSB will apply within the open FM filing window for permission to construct a new station at Altamont, Oregon. It is the understanding of WSB that FM Channel 284-C-1 at Altamont, Oregon, would be available to all interested parties.

DATED: September 17, 1994.

WESTERN STATES BROADCASTING, INC.



WILLIAM L. ZAWILA
Attorney For Western States
Broadcasting, Inc.
12550 Brookhurst Street - Ste. A
Garden Grove, CA 92640
(714) 636-5040

ENGINEERING EXHIBIT E - 1

FM CHANNEL 249 C-1 Altamont, Klamath County, Oregon
(ALLOCATION REFERENCE POINT COORDINATES)
42-05-36 X 121-59-35

FM CHANNEL 249 C-2 Butte Falls, Jackson County, Oregon
(ALLOCATION REFERENCE POINT COORDINATES)
42-22-00 X 122-22-45

DISTANCE APART: 44.02 KM (27.35 Miles)
DISTANCE REQUIRED: 224.00 KM

SHORT TO PRESENT ALLOCATION - MUTUALLY EXCLUSIVE

FM CHANNEL 249 C-2 Butte Falls, Jackson County, Oregon
(SPECIAL ALLOCATION REFERENCE POINT COORDINATES)
42-22-00 X 122-22-45 PROPOSED SITE
FM CHANNEL 249 C-2 Butte Falls, Jackson County, Oregon
(CITY REFERENCE POINT COORDINATES)
42-32-36 X 122-34-06

DISTANCE REQUIRED FOR 70 dBu Contour: Within 32.6 KM
DISTANCE FROM PROPOSED ALLOCATION/SITE TO CITY: 25.05 KM

PROPOSED SITE - ALLOCATION POINT IS WITHIN THE REQUIRED
DISTANCE .

ENGINEERING EXHIBIT E - 2

FM CHANNEL 284 C-1 Klamath Falls, Oregon
(PROPOSED ALLOCATION COORDINATES)
42-12-56 X 121-47-56

FM CHANNEL 284 C-1 Altamont, Oregon (City Reference Points)
(Counter-proposed allocation)
42-12-00 X 121-43-42

DISTANCE REQUIRED FOR 70 dBu Contour: Within 50.0 KM
DISTANCE FROM PROPOSED ALLOCATION AT KLAMATH FALLS, OR
TO ALTAMONT, OREGON CITY REFERENCE POINT COORDINATES:
6.08 KM

COUNTER-PROPOSED ALLOCATION OF 284 C-1 AT ALTAMONT, OR
IS MUTUALLY EXCLUSIVE OF PROPOSED ALLOCATION AT
KLAMATH FALLS, OREGON.

COUNTER-PROPOSED ALLOCATION POINT IS WITHIN THE REQUIRED
DISTANCE TO PROVIDE 70 dBu OVER ALTAMONT, OREGON.

ENGINEERING EXHIBIT E - 3

FM CHANNEL STUDY AT PROPOSED TRANSMITTER SITE COORDINATES
42-22-00 X 122-22-45

FM CHANNEL 249 C-2 BUTTE FALLS, JACKSON COUNTY, OREGON

246

97.1

NO STATIONS WITHIN 105 KM

247 C-1

97.3

KSHR-FM
COQUILLE, OR

43-14-51 X 124-06-46 172.3 KM 79 KM
CLEAR

247C

97.3

KNCQ
REDDING, CA

40-36-10 X 122-38-58 197.2 KM 105 KM
CLEAR

248C-1

97.5

KNLR
BEND, OR

44-04-38 X 121-19-49 208.3 KM 158 KM
CLEAR

249C-1

97.7

KCHQ
ALLOC/LIC

42-05-36 X 121-59-35 44.0 KM 224 KM
SHORT

250C-2

97.9

KPOD-FM
CRESCENT CITY NORTH, CA

41-48-25 X 124-10-16 160.8 KM 130 KM
CLEAR

250C

97.9

KUGN-FM
EUGENE, OR

44-00-08 X 123-06-50 191.3 KM 188 KM
CLOSE

251C

98.1

KVIP-FM
REDDING, CA

40-39-18 X 122-31-21 190.5 KM 105 KM
CLEAR

252C-2

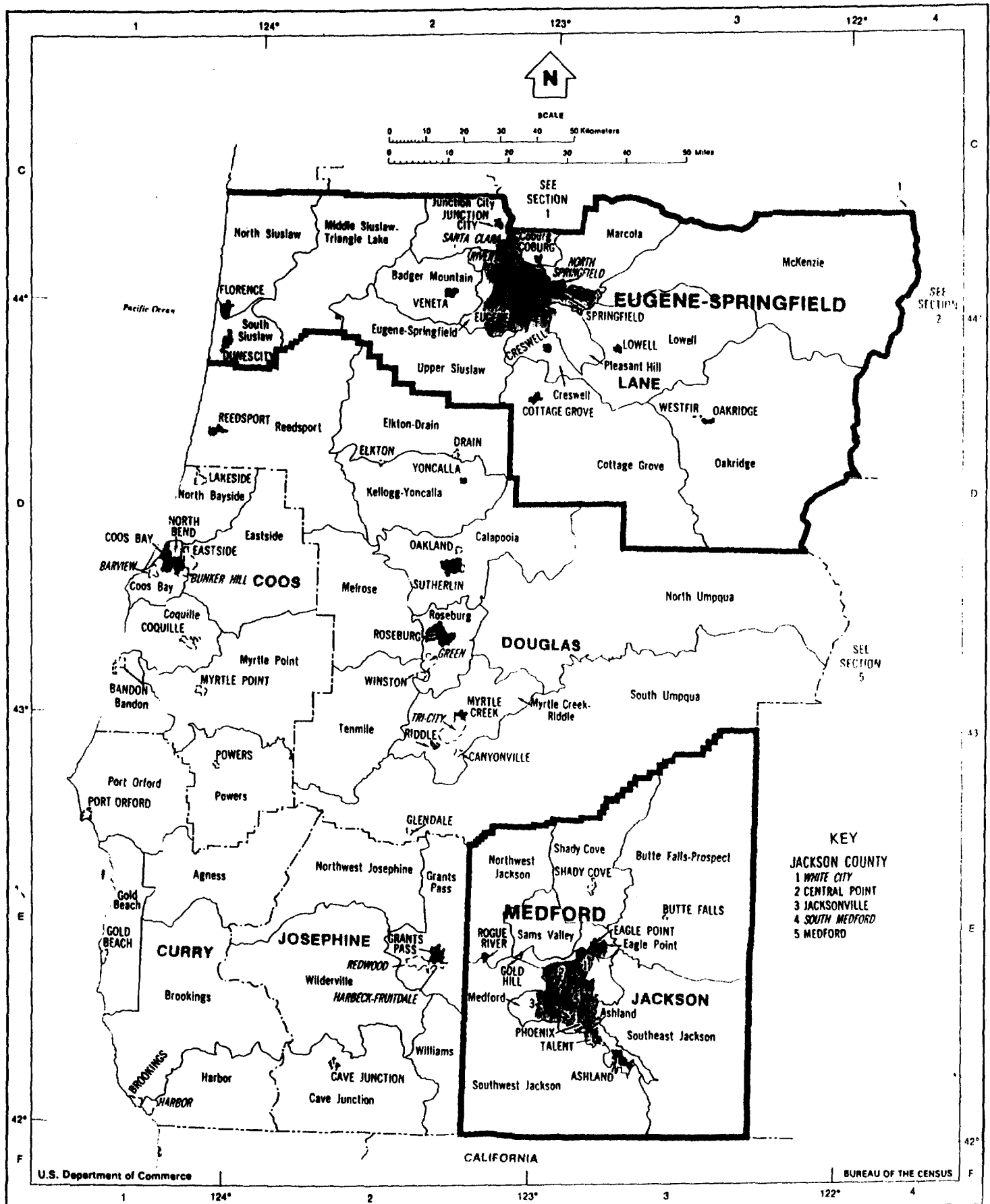
98.3

KLDR
HARBECK-FRUITDALE, OR

42-22-56 X 123-16-29 73.8 KM 58 KM
CLEAR

Index to Block Numbered Areas—Section 6

EXHIBIT E -]



CERTIFICATE OF SERVICE

I, WILLIAM L. ZAWILA, hereby certify that on September 17, 1994, I served by first-class mail, postage prepaid, a copy of the foregoing Opposition to Rulemaking and Counter-Proposal on the following:

Leonard S. Joyce, Esquire
5335 Wisconsin Avenue, N.W. - Suite 300
Washington, D.C. 20015
(Counsel to Petitioner)

Leslie K. Shapiro
Mass Media Bureau
Federal Communications Commission
1919 "M" Street, N.W.
Washington, D.C. 20554



WILLIAM L. ZAWILA